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5 Attorneys for Defendants
6 State of California by and through California
Highway Patrol and Officer Ramon Silva

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

10 SANDRA KIRKMAN AND
11 CARLOS ALANIZ,
12 INDIVIDUALLY AND AS
SUCCESSORS-IN-INTEREST TO
JOHN ALANIZ, DECEASED,

13 Plaintiff,

14 ||

15 STATE OF CALIFORNIA;
16 RAMON SILVA; AND DOES 1-10,
INCLUSIVE.

17 || Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

**DECLARATION OF LEE H.
ROISTACHER IN SUPPORT OF
DEFENDANTS' EX PARTE
APPLICATION FOR AN ORDER
HEARING DEFENDANTS'
MOTION TO STAY PENDING
APPEAL ON AN EXPEDITED
BASIS**

Courtroom: 8C
Judge: Hon. Dolly M. Gee

FPTC Date: March 25, 2025
Trial Date: April 15, 2025

20 I, Lee H. Roistacher, hereby declare as follows:

21 1. I am an attorney licensed to practice law in the State of California. I
22 am also a partner in the law firm of Dean Gazzo Roistacher, LLP, attorneys of
23 record for defendants State of California by and through California Highway
24 Patrol and Officer Ramon Silva in this matter. I have personal knowledge of the
25 following facts, and if called to testify with respect thereto, would do so
26 competently.

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2. Plaintiffs' counsel is:

Cooper Allison-Mayne
Law Offices of Dale Galipo
21800 Burbank Boulevard, Suite 310,
Woodland Hills, CA 91367,
818-347-3333
cmayne@galipolaw.com)

3. Counsel have met and conferred. Counsel is aware of this ex parte application and does not object to defendants' motion to stay the case pending appeal being heard on an expedited basis.

4. After this Court issued its order denying defendant Ramon Silva qualified immunity on plaintiffs' 42 U.S.C. § 1983 claim asserting excessive force, Silva filed a notice of appeal. Docs. 75 (order), 75 (notice of appeal). The final pretrial conference is set for March 25, 2025. Trial is currently set for April 15, 2025.

5. Counsel have met and conferred regarding the impact the notice of appeal has on this case. Counsel have discussed defendants' position that the filing of the notice of appeal automatically divests this Court of jurisdiction over the claims being appealed and further discussed defendants' motion to stay the entire case pending resolution of the appeal. Counsel have also discussed plaintiffs' position that the Court maintains jurisdiction because the appeal is frivolous and further discussed plaintiffs' motion to deem the appeal frivolous under *Chuman v. Wright*, 960 F.2d 104 (9th Cir. 1992), and plaintiffs will likewise be moving ex parte for an expedited hearing and briefing schedule to which defendants do not object.

6. With the March 25, 2025 final pretrial conference and the April 15, 2025 trial date, the motion could not be heard on regular notice before the final pretrial conference and the issuance of the pretrial conference order. And with

1 the earliest motion hearing date on regular notice from today being April 11,
2 2025, that would be just four days before the April 15, 2025 trial date. The need
3 for an expedited briefing and hearing schedule occurred through no fault of the
4 parties, as the summary judgment motion was timely filed and the notice of
5 appeal immediately filed after the Court issued its order. The parties agree
6 expedited resolution of the issues is paramount as they materially impact how
7 this case proceeds, if it proceeds at all.

8 7. The parties will oppose each other's substantive motions. The
9 parties have agreed to file opposition by March 19, 2025 and will forgo replies.
10 Defendants request the Court set a hearing date on March 25, 2025 at 2:00 p.m.
11 to coincide with the final pretrial conference, or some other earlier date if the
12 Court is inclined and available.

13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.
15 Executed on March 12, 2025.

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17 /s/ Lee H. Roistacher
18 Lee H. Roistacher, declarant
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